IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 660 OF 2005

Vasant Nivrutti Badadhe.... ....Appellant.
V/s
Ramesh Vasant Badadhe & Ors... ....Respondents.

Ms.A.R.S.Baxi, Adv. For the appellant.

CORAM: A.P.DESHPANDE, J.
17/7/07

PC:

The present appellant is the original defendant No.3. The original plaintiffs are three sons and wife of the present appellant. The suit has been filed for partition and separate possession of the joint family property owned by the appellant. It is admittedly an ancestral property. The suit for partition was opposed by the appellant mainly on the ground that in the year 1980 when the children were minor wife had instituted a miscellaneous civil application being MCA No.13/1990 in the Court of Judicial Magistrate, First Class claiming maintenance under section 125 of Criminal Procedure Code. It is the case of the appellant that a compromise took place between the appellant and his wife and under the compromise the wife accepted half share in gat No.244 and a right of residence in gram panchayat house No.237. It is contended by the appellant that on account of having accepted the land and residential house by the wife for and on behalf of minor children wife and the

children of the appellant cannot claim share in the property. The contention has been rejected by the Courts below. On bare perusal of the compromise it reveals that the wife had accepted the share in gat No.244 and right of residence in house No.237 in lieu of maintenance. The compromise by the appellant does not in any manner defeat the right of the plaintiff to claim partition and separate possession of their share in the property. The compromise did not relate to extingtion of rights of the plaintiffs to claim share in the property. However compromise only deals with right of maintenance and what was given to the wife under the compromise was in lieu of maintenance. In this view of the matter no case is made out for interference in the impugned judgment and decree in this second appeal. No substantial question of law emerges for consideration. Hence Second Appeal is summarily dismissed.

17.7.07